

## **MINUTES**

### **MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON FISH, WILDLIFE AND PARKS**

**Call to Order:** By **CHAIRMAN DANIEL FUCHS**, on January 9, 2001 at 3 P.M., in Room 152 Capitol.

#### **ROLL CALL**

##### **Members Present:**

Rep. Daniel Fuchs, Chairman (R)  
Rep. Joe Balyeat, Vice Chairman (R)  
Rep. George Golie, Vice Chairman (D)  
Rep. Keith Bales (R)  
Rep. Debby Barrett (R)  
Rep. Paul Clark (D)  
Rep. Ronald Devlin (R)  
Rep. Tom Facey (D)  
Rep. Nancy Fritz (D)  
Rep. Steven Gallus (D)  
Rep. Gail Gutsche (D)  
Rep. Larry Jent (D)  
Rep. Jeff Laszloffy (R)  
Rep. Diane Rice (R)  
Rep. Rick Ripley (R)  
Rep. Allen Rome (R)  
Rep. Jim Shockley (R)  
Rep. Donald Steinbeisser (R)  
Rep. Bill Thomas (R)  
Rep. Brett Tramelli (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Linda Keim, Committee Secretary  
Doug Sternberg, Legislative Branch

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

##### **Committee Business Summary:**

Hearing(s) & Date(s) Posted: HB 39, HB 132, HB 142,  
1/9/2001  
Executive Action: HB 39

HEARING ON HB 132

Sponsor: REPRESENTATIVE JOHN BRUEGGEMAN, HD 70, Polson

Proponents: Doug Monger, Fish, Wildlife and Parks  
Bob Carroll, Coast Guard Auxiliary  
Bob Gilbert, Montana Walleyes Unlimited  
Fred Easy, Self  
Jeff Barber, Montana Wildlife Federation  
Ken Hoovestol, Boating Advisory Council

Opponents: None

Opening Statement by Sponsor:

*{Tape : 1; Side : A; Approx. Time Counter : 3.03}*

REPRESENTATIVE JOHN BRUEGGEMAN, HD 74, Polson, stated that HB 132 would revise statutes related to the allocation and disposition of the fee in lieu of tax on motorboats. HB 132 was introduced to ensure that boat fees will continue to benefit public boating facilities, increasing by 7 percent the portion of the boat fee in lieu of tax allocated to the Department of Fish, Wildlife, and Parks (FWP) for funding additional water safety education and enforcement, removing a provision that limits disbursement of collected fees to the region in which the payor's boating activities occur, and providing an effective date. HB 132 changed the 20% of fees designation to 27%. REPRESENTATIVE BRUEGGEMAN wishes to return to the original 20%. The second change REPRESENTATIVE BRUEGGEMAN advocates would increase the boating fee from \$2.50 to \$5.00.

Proponents' Testimony:

*{Tape : 1; Side : A; Approx. Time Counter : 3.13}*

Doug Monger, Fish, Wildlife and Parks, submitted written testimony, **EXHIBIT**(fih06a01), and Potential Boat-In-Lieu Projects, **EXHIBIT**(fih06a02).

Bob Carroll, United States Coast Guard Auxiliary, submitted written testimony, **EXHIBIT**(fih06a03).

Bob Gilbert, Montana Walleyes Unlimited, stated they support the bill and the one problem they had was addressed in the amendment. They would prefer taking an additional 7% out in lieu of raising the sticker fees from \$2.50 to \$5.00. They also like using the money in public facilities in the region designated.

**Fred Easy**, representing himself, stated that as a boat owner and member of the Gates of the Mountains Boat Club, boating education is important. However, money from increased fees should be used for building adequate docks in lieu of paving parking lots, improving toilets, fishing access sites, etc.

**Jeff Barber, Montana Wildlife Federation**, stated they support the bill. It is important to continue the program, add more safety officers, and more voter education is necessary.

**Ken Hoovestol, Boating Advisory Council** said they support the bill and will work with Fish, Wildlife and Parks to accomplish this.

**Opponents' Testimony:** None

**Questions from Committee Members and Responses:**

*{Tape : 1; Side : A; Approx. Time Counter : 30.6}*

**REPRESENTATIVE CLARK** is questioning format on Section 2 and 3 as it is not all in one section. **Doug Sternberg, Legislative Staffer** stated that Section 2; 23-2-533 is repeated on page 3; as New Section 4; 23-2-533. He explains that New Section 4, Coordination instruction with another bill, LC 90, which is HB 124, includes revision of county funding of the motor boat account. If that bill passes, Section 4 of this bill coordinates HB 124 with HB 132 so they work together. Sub section 1 deals with funding to be included in HB 124 and some legal contingencies in the passage of LC 90 that would require language revision of Section 23-2-533 and also include 23-2-534. If both bills pass, this bill adds some contingent language that makes changes because of the fiscal impact of that bill.

**REPRESENTATIVE CLARK** questions Section 23-2-518 on line 3 of page 2 which gives specific instructions about monies going to counties, but which has been deleted. **REPRESENTATIVE CLARK** asked if it was intended that monies be used at county discretion.

**REPRESENTATIVE BRUEGGEMAN** states want FWP to work at discretion of counties and before could not use monies at county owned sites. Instead of limiting to FWP sites, the purpose is to have more discretion available in use of funds.

**REPRESENTATIVE FACEY** asks if this is for a specific account and if so, what is the balance. **DOUG MONGER** replied he could have the answer next week. It is about \$285,000 per biennium.

**REPRESENTATIVE BALLYEAT** asks about original language in bill and proposed amendment by **REPRESENTATIVE BRUEGGEMEYER**. To clarify,

the original language was for 27% of all fees allocated, prior to that, and if the bill doesn't pass, it was fixed at 20%. If it goes to 27%, that isn't a new tax, you are just requesting a higher percentage of the fee already being collected. **DOUG**

**MONGER** agrees. **REPRESENTATIVE BALLYEAT** continues: In your written testimony, the additional 7% would be used to fund safety education and law enforcement. Verbal testimony indicates if amended as suggested and keep fees at 20%, alternative funding would be needed for boater education, safety and law enforcement. As an alternative, you advocate increase in fees from \$2.50 to \$5.00. **DOUG MONGER** agrees and states that the additional 7% and \$2.50 fee increase raises approximately same amount of money. **REPRESENTATIVE BALLYEAT** asks if other funding sources were considered. **DOUG MONGER** states that the \$2.50 increase on decal fee was fairest, and that is the department preference, as the 7% increase would affect county budgets.

**REPRESENTATIVE SHOCKLEY** states the extra \$2.50 would be a user fee in his opinion. States that the case is based on more people using the water ways, therefore there is a need for more ramps, etc. **DOUG MONGER** agreed this is part of FWP's case; that more people on the water are affecting conflicts more that they are affecting boat facilities. As far as available facilities, in response to the gentleman requesting more boat docks - the reason we haven't put in boat docks is because boat ramps and basic facilities don't exist or are in poor condition. As those are improved, we can move on to things like boat docks. For example, Swan Lake has no access at the Northern end has a need for land acquisition as well as initial development.

**REPRESENTATIVE SHOCKLEY** states if there are more people and more boats using the waterways, this means more boats to tax which would increase the amount of money available, and there would be no need for an increased user fee. **DOUG MONGER** agrees there are more users, but says that doesn't generate enough money.

**REPRESENTATIVE SHOCKLEY** asks what the four FTE's will be used for. **DOUG MONGER** replies they will be used for seasonal water safety officers; three month positions used for boating education, boating ethics, life jacket checks, and basic law enforcement work.

**REPRESENTATIVE SHOCKLEY** questions why the sunset is not being done away with. **REPRESENTATIVE BRUEGEMAN** replies they would like to see the program continue, since the money has gone to maintain many boating facilities. If boaters are paying a fee, they should see some return in the form of a boating aspect. Money needs to go right back to improve boating infrastructure and goes back to serve the boaters instead of going into other county programs.

**REPRESENTATIVE RIPLEY** asks about fiscal note indicating technical concerns. **REPRESENTATIVE BRUEGGEMAN** states this has to do with the "big" bill. If this bill passes and restructuring takes place, there must be coordination, and that is the technical issue to be overcome.

*{Tape : 1; Side : A; Approx. Time Counter : 45.1}*

**Closing by Sponsor:**

**REPRESENTATIVE BRUEGGEMAN** states that this has been a very successful program in the past. With oversight of boating advisory council and added insight from the county, we have a lot more discretion with funds; helping areas that otherwise would not be able to generate enough revenue to work on projects in their area. We will be able to be more flexible than before and won't tie up funds with projects that are not really necessary.

No executive action taken. Hearing closed on HB 132.

*{Tape : 1; Side : A; Approx. Time Counter : 45.3}*

**HEARING ON HB 142**

**Sponsor:** REPRESENTATIVE ROGER SOMERVILLE

**Proponents:** Jeff Hagener, Fish Wildlife and Parks  
Jean Johnson, Montana Outfitters and Guides  
Jeff Barber, Montana Wildlife Federation

**Opponents:** None

**Informational Witnesses:** Robin Cunningham, Fishing Outfitters of Western Montana

**Opening Statement by Sponsor:**

*{Tape : 1; Side : A; Approx. Time Counter : 46.5}*

**REPRESENTATIVE ROGER SOMERVILLE, HD 78, Kalispell,** stated the purpose of the bill is to grant FWP authority to adopt rules restricting nonresident bear and mountain lion hunters in designated hunting districts. FWP would like to work with this bill today, but revisions will need to be made later in executive action by means of amendments, so that proponents can speak today. About 70% have been taken by out of state hunters, the usual percentage being 10% by nonresident hunters, and this needs to change. Due to high numbers of nonresident mountain lion hunters, in many cases, quotas have been exceeded by as much as 100% by the first day. Black bear hunting is very similar, but

with both a fall and spring harvest. Letter from Flathead County Commissioner Dale Williams is submitted for consideration **EXHIBIT(fih06a04)**.

**Proponents' Testimony:**

***{Tape : 1; Side : A; Approx. Time Counter : 58.1}***

**Jeff Hagener, Fish, Wildlife and Parks**, submitted written testimony, **EXHIBIT(fih06a05)**.

**Jean Johnson, Montana Outfitters and Guides**, states that there is concern from the outfitters because of mis-communication and failure to know what was coming forward. Fishing Outfitters would like to work with the sub-committee to find a solution that works for everyone. Lion Council came to the conclusion that it was the non-guided nonresidents using out of state outfitters with their hounds that caused the most problems.

**Jeff Barber, Montana Wildlife Federation**, states that of the 23 member clubs, all feel this issue needs to be addressed and look forward to working with amendments that will be forth coming.

**Opponents' Testimony:** None

**Informational Witnesses:**

**Robin Cunningham, Fishing Outfitters Association of Western Montana**, states it is mostly the precedent this sets. They recognize social conflicts around the state, and have some concern about the advisory committees of FWP. They hope that as an association dealing with social conflicts, that with the shift from animal control to crowd control, an exception will be made to the Montana Procedures Act for rational use of judgement to achieve their ends and justify their procedures. We are dealing with people, whether resident or nonresident.

**Questions from Committee Members and Responses:**

***{Tape : 1; Side : B; Approx. Time Counter : 4.08}***

**CHAIRMAN FUCHS** reminded everyone that this is an unusual situation where the bill is being moved along before it is in its final form. Be aware that changes will take place, possibly in sub-committee, before executive action takes place.

**REPRESENTATIVE CLARK** stated he would be willing to work with **REPRESENTATIVE SOMERVILLE** and other volunteers on a sub-committee which will be appointed at the end of the discussion.

**REPRESENTATIVE BALLYEAT** states that with the proposed solution and the problem it seems you are killing a fly with a bear gun. As an experienced bear hunter and familiar with mountain lion hunting, it seems this language gives FWP authority to instigate permit only or drawing only nonresident hunting for lions and bears statewide, not just in northwestern Montana **JEFF HAGENER** replied that it would give the authority for any district throughout the state if necessary. **REPRESENTATIVE BALLYEAT** said in a written communication from Flathead County Board of Commissioners they suggested an alternative approach of raising the nonresident license substantially from \$125 to \$400 to make it comparable to other states. This approach would be advantageous because it raises more money, it doesn't introduce instability to the outfitting industry, it is better for the economy because it limits the irresponsible nonresidents, and it doesn't require giving broad statewide powers to FWP for the whole state. Have you considered just raising the price and what conclusions have you reached. **JEFF HAGENER** defers to Don Childress. **DON CHILDRESS, FWP**, states they did not look specifically at license fees as a solution. Looked primarily at lion issue. Total numbers are not the problem, it is how many that are in each individual district. Re the bear issue, only several hunting districts have a problem with nonresident hunters. Restriction is only aimed at those districts, rather than total restriction. That has been the discussion so far.

**REPRESENTATIVE BALES** questions whether you are going to limit to just a certain percent, or to a certain number of people in those districts that are nonresidents, and those nonresidents can hunt anywhere else in the state. **JEFF HAGENER** defers to Don Childress for details. **DON CHILDRESS**, states Commission was looking specifically at lion hunting by district. If we restrict them in one area, are we going to end up with a new situation.

**REPRESENTATIVE BALES** states that since there is no quota, what is the justification for also doing grizzly bears at this time. **DON CHILDRESS**, this is strictly on black bear. The issue is that we have restricted the time and length of harvest by hunters in the northwest. They have seen a shift of nonresident hunters from the northwest into areas that open up later and have longer seasons which has created problems in terms of grizzly bear identification. There were three accidental mortalities as a result of mistaken identify. They are really looking at focusing by specific district which gives more control of hunters.

**REPRESENTATIVE BALES** states that it appears you are handling any problems with the black bear and there is no need for more focus at this time. **DON CHILDRESS** states main focus is with mountain lion, as the number of districts with black bear problems is limited.

**REPRESENTATIVE LASZLOFFY** refers to page four, line 3 of the bill, which talks about the commission preserving the type of hunting experience that is most appropriate, please elaborate. **JEFF HAGENER**, this is something the commission has to deal with. We want to preserve the heritage we have in Montana of a traditional hunting experience, and avoid having everyone lined up before daybreak ready to go. He agrees it is a subjective call to some extent.

**REPRESENTATIVE LAZLOFFY** states changes in recent years which say we can no longer manage national forests for their natural resource value, but must instead be managed for their spiritual value. You said this is the type of ruling that the Commission has to deal with. In this same statute, it says harvest may be regulated toward biologically sound management of big game populations of deer and elk, and to control their impact on uses of private property. **REPRESENTATIVE LAZLOFFY** states that language is a lot more objective, and some definitions of a good hunting experience vary. He feels we are getting too broad in our definitions. **JEFF HAGENER**, states he feels that is a good topic to deal with in the subcommittee that will discuss this issue.

**Closing by Sponsor:**

**REPRESENTATIVE SOMERVILLE** reminds everyone of the problems the outfitter guides and the lion hunters want to work out with FWP. He requests the committee work with them to get this problem solved. The problems in the Libby and Thompson Falls areas will impact the rest of the state due to the domino effect. We want to act ahead of time on this issue instead of reacting.

**CHAIRMAN FUCHS** asks that he, **REPRESENTATIVE CLARK**, **REPRESENTATIVE LASZLOFFY**, **REPRESENTATIVE JENT**, and **Legislative Staffer Doug Sternberg** be on the subcommittee for HB 142. **REPRESENTATIVE CLARK** will be the chairperson, with Executive Action planned for next Tuesday January 16.

Hearing Closed on HB 142. No Executive Action taken.

**{Tape : 1; Side : B; Approx. Time Counter : 4.23}**

**HEARING ON HB 39**

**Sponsor:** REPRESENTATIVE DAN FUCHS, HD 15, Billings

**Proponents:** Jeff Hagener, FWP

**Opponents:** None

**Informational Witnesses:** None

**Opening Statement by Sponsor:**

REPRESENTATIVE FUCHS, HD 15, Billings stated the bill deals with youth and seniors. The purpose of section 304 is to increase the fishing age of youth that are allowed to use designated fishing waters from age 13 to age 14 to encourage more kids to fish by increasing the opportunities available to them. The second section will allow youth and seniors to buy a conservation license and get a paddlefish tag.

**Proponents' Testimony:**

JEFF HAGENER, FWP submitted written testimony **EXHIBIT(fih06a06)**. Please make one change, fourth paragraph should read "Class A" fishing license. (Class B and B-4 licenses refer to non-residents)

**Opponents' Testimony:** None

**Informational Testimony:** None

**Questions from Committee Members and Responses:** None

**Closing by Sponsor:**

REPRESENTATIVE FUCHS stated that due to the time, he would just express his thanks for everyone's support.

**EXECUTIVE ACTION ON SB 39**

**Motion/Vote:** REPRESENTATIVE FACEY moved that HD 39 DO PASS.  
**Motion Carried Unanimously. 20-0.**

**ADJOURNMENT**

Adjournment: 4:35 P.M.

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REP. DANIEL FUCHS, Chairman

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LINDA KEIM, Secretary

DF/LK

**EXHIBIT** (fih06aad)